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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,095	11/20/2003	Brent David Franklin	AUS920030935US1	9423
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IBM CORP (YA) C/O YEE & ASSOCIATES PC P.O. BOX 802333 DALLAS, TX 75380			EXAMINER LIU, ERIC	
			ART UNIT 3628	PAPER NUMBER

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,095

Applicant(s)

FRANKLIN, BRENT DAVID

Examiner

Eric Liou

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/20/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of a minor informality.
2. As per claim 14, the “and” in line 3 should be replaced by “or”. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-5, 6-8, 10, 12-17, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott, U.S. Patent No. 6,366,220.
5. As per claim 1, Elliot teaches a storage card for dining preferences, the storage card comprising: a card (Elliot: Figure 3, “104”); a memory located within the card (Elliot: column 5, lines 24-27), wherein the memory stores identification information used to retrieve a plurality of dining preferences for at least one restaurant from a database (Elliot: column 5, lines 24-33), wherein the plurality of dining preferences are portable from location to location and are capable of repetitious use (Elliot: column 5, lines 24-33, The Examiner notes, the dining preferences are portable since they can be accessed by the RF tag at any restaurant.); and a communications interface, wherein the communications interface allows for the dining preference identification

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information to be read from the memory by a data processing system at a restaurant for use in generating a food order (Elliot: Figure 3, "104", Figure 6, and column 5, lines 24-33).

6. Elliot does not teach the storage card stores dining preferences directly in the customer card's memory.

7. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified the storage card of Elliot to have included the storage card stores dining preferences directly in a customer card's memory. One skilled in the art would be motivated to store dining preferences locally on a customer's card for the advantage of eliminating the need for a separate external database.

8. As per claim 3, Elliot teaches the storage card of claim 1 as described above. Elliot further teaches the communications interface uses radio frequency signals to read and write the dining preferences (Elliot: column 5, lines 24-33).

9. As per claim 4, Elliot teaches the storage card of claim 3 as described above. Elliot further teaches the communications interface is a radio frequency transceiver (Elliot: column 5, lines 24-33, The Examiner notes, RF tag 104 receives and sends identification information.).

10. As per claim 5, Elliot teaches the storage card of claim 1 as described above. Elliot further teaches each of the plurality of dining preferences includes a name of a restaurant, a name of a food item, and preferences for the food item (Elliot: Figure 5 and column 7, lines 63-67).

11. As per claims 6 and 15, Elliott teaches a method and system for using dining preferences to generate an order, the method comprising: reading identification information from a memory in a card to retrieve dining preferences for a restaurant from a database (Elliott: Figure 3, "110A", Figure 6, "604", column 5, lines 24-33, and column 8, lines 19-25), wherein the

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memory includes dining preferences for food items for a set of restaurants (Elliott: Figure 5 and column 5, lines 30-33); displaying the dining preferences (Elliott: Figure 6, "606", Figure 7, "712", column 8, lines 24-25, and column 9, lines 10-12); and generating the order using the dining preferences (Elliott: Figure 6, "608", Figure 7, and column 8, lines 27-29).

12. Elliott does not teach reading dining preferences directly from a customer card's memory.

13. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified the method and system of Elliot to have included reading dining preferences directly from a customer card's memory. One skilled in the art would be motivated to store dining preferences locally on a customer's card for the advantage of eliminating the need for a separate external database.

14. As per claims 7 and 16, Elliot teaches the method and system of claims 6 and 15 as described above. Elliott further teaches the set of restaurants includes at least one restaurant (Elliott: Figures 4 and 5).

15. As per claims 8 and 17, Elliot teaches the method and system of claims 6 and 15 as described above. Elliot further teaches initiating the generating step after a user input confirming the dining preferences for the order (Elliot: column 8, lines 25-29, The Examiner interprets the customer choosing to order from the default menu to be confirming the dining preferences for the order.).

16. As per claims 10, Elliot teaches the method of claim 6 as described above. Elliot further teaches the dining preferences are read from the memory using radio frequency signals (Elliot: column 5, lines 24-27).

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17. As per claim 12, Elliot teaches the method of claim 6 as described above. Elliot further teaches the dining preferences are stored in association with a restaurant name and a food item name (Elliot: column 6, lines 41-61).

18. As per claim 13, Elliot teaches the method of claim 6 as described above. Elliot further teaches the dining preferences for the restaurant are portable (Elliot: Figure 3, "104" and column 5, lines 24-40).

19. As per claim 14, Elliot teaches the method of claim 6 as described above. Elliot further teaches the dining preferences are generated by at least one of a kiosk in a public location (Elliot: column 9, lines 60-63).

20. As per claim 19, Elliot teaches a computer program product in a computer readable medium for using dining preferences to generate an order (Elliot: column 8, lines 54-67 and column 9, lines 1-9), the computer program product comprising: first instructions for reading identification information from a memory in a card to retrieve dining preferences for a restaurant from a database (Elliott: Figure 3, "110A", Figure 6, "604", column 5, lines 24-33, and column 8, lines 19-25), wherein the memory includes dining preferences for food items for a set of restaurants (Elliott: Figure 5 and column 5, lines 30-33); second instructions for displaying the dining preferences (Elliott: Figure 6, "606", Figure 7, "712", column 8, lines 24-25, and column 9, lines 10-12); and third instructions for generating the order using the dining preferences (Elliott: Figure 6, "608", Figure 7, and column 8, lines 27-29).

21. Elliott does not teach reading dining preferences directly from a customer card's memory.

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22. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified the computer program product of Elliot to have included reading dining preferences directly from a customer card's memory. One skilled in the art would be motivated to store dining preferences locally on a customer's card for the advantage of eliminating the need for a separate external database.

23. As per claim 20, Elliot teaches the computer program product of claim 19 as described above. Elliott further teaches the set of restaurants includes at least one restaurant (Elliott: Figures 4 and 5).

24. As per claim 21, Elliot teaches the computer program product of claim 19 as described above. Elliot further teaches fourth instructions for initiating the third instructions after a user input confirming the dining preferences for the order (Elliot: column 8, lines 25-29, The Examiner interprets the customer choosing to order from the default menu to be confirming the dining preferences for the order.).

25. Claims 2, 9, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott, U.S. Patent No. 6,366,220 in view of Page et al., U.S. Patent No. 6,801,787.

26. As per claims 2, 9, 18, and 22, Elliot teaches the storage card, method, data processing system, and computer program product of claims 1, 6, 15, and 19 as described above. Elliot does not teach a smart card.

27. Page teaches a smart card (Page: Figure 2, "106").

28. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified the storage card, method, data processing system, and

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computer program product of Elliot to have included a smart card as taught by Page for the advantage of providing a card that allows one to transfer information easily without the need for specialized equipment or software (Page: column 4, lines 55-60).

29. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Elliott, U.S. Patent No. 6,366,220 in view of Shaw, Jr. et al., U.S. Patent No. 6,755,345.

30. As per claim 11, Elliot teaches the method of claim 6 as described above. Elliot does not teach the memory is a nonvolatile random access memory.

31. Shaw teaches the memory is a nonvolatile random access memory (Shaw: column 6, lines 30-35).

32. It would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to have modified the method of Elliot to have included the memory is a nonvolatile random access memory as taught by Shaw for the advantage of providing an improved smart card system which is inexpensive, dependable, and fully effective in accomplishing its intended purposes (Shaw: column 5, lines 7-11).

Conclusion

33. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Brown et al., U.S. Patent No. 6,859,215 drawn to a method, system and program for specifying an electronic food menu on a data processing system.

34. The Examiner has cited particular portions of the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of

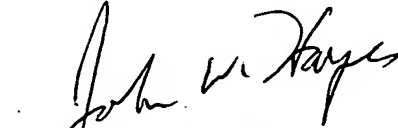
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the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that the applicant, in preparing the responses, fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Liou whose telephone number is 571-270-1359. The examiner can normally be reached on Monday - Friday, 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER